

## **EXHIBIT C**

SUPREME COURT: COUNTY OF WESTCHESTER  
STATE OF NEW YORK

-----X  
THE PEOPLE OF THE STATE OF NEW YORK,

against-

GIOVANNI RIVERA,

Defendant-Appellant.  
-----X

**RECEIVED**

AUG - 6 2018

TIMOTHY C. IDONE  
COUNTY CLERK  
COUNTY OF WESTCHESTER

NOTICE OF APPEAL

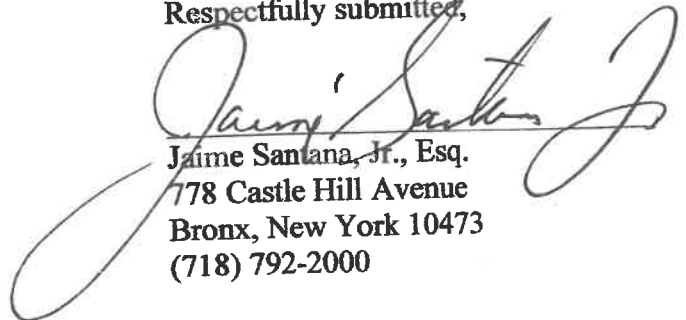
Docket No.: 06034M-2017

C O U N S E L O R S :

PLEASE TAKE NOTICE that defendant, GIOVANNI RIVERA, hereby appeals to the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, from the attached Decision and Order dated July 10, 2018 and Sentence and Commitment Order of the County Court of the State of New York, County of Westchester (Susan M. Capeci, J.), dated July 11, 2018, and entered in the Office of the Clerk of the County of Westchester on July 26, 2018, and the plaintiff appeals from every part of said Decision and Order and Sentence and Commitment Order, as well as from the whole thereof.

Dated: Bronx, New York  
August 6, 2018

Respectfully submitted,

  
Jaime Santana, Jr., Esq.  
778 Castle Hill Avenue  
Bronx, New York 10473  
(718) 792-2000

TO: Anthony A. Scarpino, Esq.  
District Attorney of Westchester County  
111 Martin Luther King Blvd.  
White Plains, New York 10601  
913-995-3414

CLERK OF THE COURT  
COUNTY COURT, ORANGE COUNTY  
111 Martin Luther King Blvd.  
White Plains, New York 10601

RECEIVED DISTRICT ATTORNEY

AUG 6 - 6 2018

RECEIVED DISTRICT ATTORNEY

**Supreme Court of the State of New York**  
**Appellate Division : Second Judicial Department**  
**Request For Appellate Division Intervention - Criminal Cases**

Instructions: Use a separate copy of this form for each judgment, sentence or order appealed from. Multiple convictions under different accusatory instruments, even if the judgments were rendered in the same court on the same day, require the completion of separate copies of this form. Please type or print and answer

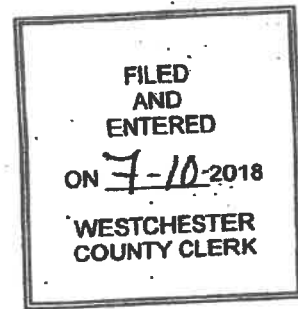
all questions.

Attach a copy of the notice of appeal. If the appeal is from an order, attach a copy. If the appeal is from a judgment or sentence, attach a copy of the commitment order or an extract of the clerk's minutes.

<b>Case Title:</b> <p align="center"><b>The People of the State of New York,</b>  <b>vs.</b>  <b>GIOVANNI RIVERA</b>    <b>Defendant</b></p>		<p align="center"><b>For Appellate Division Use Only</b></p> <b>Case No.:</b>  <b>File Opened:</b>	
<b>Appellate Division Status:</b> Place a <input checked="" type="checkbox"/> in the appropriate box to indicate the Appellate Division status of the parties.		<b>Plaintiff/Defendant</b> <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent <input checked="" type="checkbox"/> Appellant <input type="checkbox"/> Respondent	
<b>Type of Crime:</b> If this is an appeal from a judgment of conviction, a sentence or an order granting or denying post-conviction relief, place a <input checked="" type="checkbox"/> mark in up to five of the following boxes to indicate the type of crime or crimes of which the defendant was convicted. If the conviction was for more than five crimes, check the five most serious charges. Check the <input type="checkbox"/> to indicate that the conviction was for the substantive crime and check the <input type="checkbox"/> to indicate that the conviction was for an		attempt to commit that crime. In the event that the precise crime of which the defendant was convicted does not appear on the following list, check the box comparable to the article of the Penal Law in which the substantive crime is set forth. If this is an appeal by the People from an interlocutory order, check up to five boxes to indicate the crimes of which the defendant has been charged.	
<input type="checkbox"/> = Substantive Crime		<input type="checkbox"/> = Attempt to Commit Crime	
<input type="checkbox"/> 1 Arson <input type="checkbox"/> 2 Assault & Related Offenses <input type="checkbox"/> 3 Bribery, Not Public Servant & Related Offenses <input type="checkbox"/> 4 Bribery, Public Servants & Related Offenses <input type="checkbox"/> 5 Burglary & Related Offenses <input type="checkbox"/> 6 Children & Incompetents, Offenses Affecting <input type="checkbox"/> 7 Computer Offenses <input type="checkbox"/> 8 Conspiracy <input type="checkbox"/> 9 Controlled Substances, Possession <input type="checkbox"/> 10 Controlled Substances, Sale <input type="checkbox"/> 11 Controlled Substances, Other <input type="checkbox"/> 12 Criminal Facilitation <input type="checkbox"/> 13 Criminal Mischief & Related Offenses <input type="checkbox"/> 14 Criminal Possession of Stolen Property <input type="checkbox"/> 15 Criminal Solicitation <input type="checkbox"/> 16 Enterprise Corruption <input type="checkbox"/> 17 Escape & Offenses Relating to Custody	<input type="checkbox"/> 18 False Written Statements - Offenses Involving <input type="checkbox"/> 19 Firearms & Dangerous Weapons, Possession <input type="checkbox"/> 20 Firearms & Dangerous Weapons, Use <input type="checkbox"/> 21 Firearms & Dangerous Weapons, Other <input type="checkbox"/> 22 Forgery & Related Offenses <input type="checkbox"/> 23 Frauds on Creditors <input type="checkbox"/> 24 Frauds, Other <input type="checkbox"/> 25 Gambling Offenses <input type="checkbox"/> 26 Homicide, Abortion <input type="checkbox"/> 27 Homicide, Criminal Negligent <input type="checkbox"/> 28 Homicide, Manslaughter <input type="checkbox"/> 29 Homicide, Murder <input type="checkbox"/> 30 Homicide, Vehicular Manslaughter <input type="checkbox"/> 31 Insurance Fraud <input type="checkbox"/> 32 Kidnapping, Coercion & Related Offenses <input type="checkbox"/> 33 Larceny <input type="checkbox"/> 34 Marijuana Offenses	<input type="checkbox"/> 35 Marital Relationship, Offenses Affecting <input type="checkbox"/> 36 Motor Vehicle, Operating Under Influence <input type="checkbox"/> 37 Motor Vehicle, Other <input type="checkbox"/> 38 Obscenity & Related Offenses <input type="checkbox"/> 39 Offenses Relating to Judicial & Other Proceedings <input type="checkbox"/> 40 Official Misconduct, Obstruction of Public Servants <input type="checkbox"/> 41 Perjury & Related Offenses <input type="checkbox"/> 42 Privacy, Offenses Against <input type="checkbox"/> 43 Prostitution Offenses <input type="checkbox"/> 44 Public Order, Offenses Against <input type="checkbox"/> 45 Public Sensibilities, Offenses Against <input type="checkbox"/> 46 Robbery <input type="checkbox"/> 47 Sex Offenses, Rape <input type="checkbox"/> 48 Sex Offenses, Sexual Abuse <input type="checkbox"/> 49 Sex Offenses, Sodomy <input type="checkbox"/> 50 Theft Offenses, Other <input checked="" type="checkbox"/> 51 Other	
<b>Original Court Information (Use another Form D for additional appeals):</b>			
<b>Appeal From (Check one only):</b> <input type="checkbox"/> Judgment <input type="checkbox"/> Order <input checked="" type="checkbox"/> Sentence <input type="checkbox"/> Amended Judgment <input type="checkbox"/> Amended Order <input type="checkbox"/> Amended Sentence <input type="checkbox"/> Rescinded Order <input type="checkbox"/> Decision <input type="checkbox"/> Other (specify):			
<b>Dated or Rendered:</b> July 11, 2018		<b>Indictment or Superior Court Information No.:</b> 6034M-2017	
<b>Court:</b> Supreme Court: Integrated Domestic Violence Part		<b>County:</b> Westchester	
<b>Stage:</b> <input type="checkbox"/> Interlocutory <input checked="" type="checkbox"/> Final <input type="checkbox"/> Post-Final		<b>Judge (name in full):</b> Susan M. Capecci	
<b>Conviction:</b> <input type="checkbox"/> Plea of Guilty <input type="checkbox"/> Jury Verdict <input checked="" type="checkbox"/> Nonjury Trial <input type="checkbox"/> Not Applicable			
<b>Codendants:</b> Were there any codendants under this accusatory instrument? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>Names of codendants convicted under this accusatory instrument:</b>			
<b>Defendant Information (Please supply any available information):</b>		<b>NYSIS No.:</b>	
<b>Prisoner Identification No.:</b>		<b>FBI No.:</b>	
<b>Address:</b>			

App. Div. : 2nd Dept.

**EXHIBIT A**



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

THE PEOPLE OF THE STATE OF NEW YORK, \_\_\_\_\_X

-against-

GIOVANNI RIVERA,  
Defendant. \_\_\_\_\_X

DECISION AND ORDER  
Docket #17-6034M

A bench trial was held on June 22, 2018, in this matter where the defendant has been charged by information with harassment in the second degree pursuant to P.L. 240.26 (1).

A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person "1. He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same."

Based upon the credible evidence, the Court finds that defendant's violation of the above statute was established beyond a reasonable doubt. The Court therefore finds the defendant guilty on the charge of harassment in the second degree.

This constitutes the Decision and Order of this Court.

Dated: July 10, 2018  
White Plains, New York

  
\_\_\_\_\_  
HON. SUSAN M. CAPECI  
A.J.S.C.

To: Hon. Anthony A. Scarpino, Jr.  
District Attorney, Westchester County  
111 Dr. Martin Luther King Jr. Blvd.  
White Plains, New York 10601

Jaime Santana, Jr., Esq.  
Attorney for Defendant  
1200 Waters Place, Suite 105  
Bronx, New York 10461

**EXHIBIT B**



DV180103

## UNIFORM SENTENCE &amp; COMMITMENT

UCS-854(8/2011)

STATE OF NEW YORK

COUNTY COURT, COUNTY OF WESTCHESTER

PRESENT: HON CAPECL

Court Part: DV-AM

Court Reporter: C. KUCZINSKI

Superior Ct. Case #: 06034M-2017



The People of the State of New York				Accusatory Instrument Charge(s)		Count #		Law/Section & Subdivision	
-vs- GIOVANNI RIVERA				1 HARASS2		1		PL 240.26(01)	
Defendant				2					
				3					
				4					
Male	04/26/1981	12189188J	68023418L	Date(s) of Offense: 01/26/2017		To			
Sex	DOB	NYSID #	Criminal Justice Tracking #						

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED BY [ ☐ PLEA OR ☒ VERDICT ], THE MOST SERIOUS OFFENSE BEING A [ ☐ FELONY OR ☐ MISDEMEANOR OR ☒ VIOLATION ], IS HEREBY SENTENCED TO:

Crime	Count #	Law/Section & Subdivision	SMF, Hate or Terror	Minimum Period	Maximum Term	Definite / Determinate **	Post-Release Supervision	CJTN
1 HARASS2	1	PL 240.26(01)						68023418L
2								
3								
4								
5								

\*\* NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

☐ Counts shall run CONCURRENTLY with each other ☐ Count(s) shall run CONSECUTIVELY to count(s)

☐ Sentence imposed herein shall run CONCURRENTLY with and/or CONSECUTIVELY to

☐ Sentence imposed herein shall include a CONSECUTIVE term of [ ☐ PROBATION OR ☐ CONDITIONAL DISCHARGE ]

☐ with an Ignition Interlock Device condition, that shall commence upon the defendant's release from imprisonment [PL § 60.21]

☐ Conviction includes: WEAPON TYPE: and/or DRUG TYPE:

☐ Charged as a JUVENILE OFFENDER- age at time crime committed: years ☐ Court certified the Defendant a SEX OFFENDER [Cor. L. § 168-d]

☐ Adjudicated a YOUTHFUL OFFENDER [CPL § 720.20] ☐ CASAT ordered [PL § 60.04(6)]

☐ Execute as a sentence of PAROLE SUPERVISION [CPL § 410.91] ☐ SHOCK INCARCERATION ordered [PL § 60.04(7)]

☐ Re-sentenced as a PROBATION VIOLATOR [CPL § 410.70]

☐ As a: ☐ Second ☐ Second Violent ☐ Second Drug ☐ Second Drug w/prior VFO ☐ Predicate Sex Offender **FELONY OFFENDER**

☐ Predicate Sex Offender w/prior VFO ☐ Second Child Sexual Assault ☐ Persistent ☐ Persistent Violent

Paid Not Paid Deferred (If deferred, court must file written order [CPL § 420.40(5)]) Paid Not Paid Deferred (If deferred, court must file written order [CPL § 420.40(5)])

<input checked="" type="checkbox"/> Mandatory Surcharge \$95.00	<input type="checkbox"/> Crime Victim Assistance Fee \$25.00
<input type="checkbox"/> Fine \$	<input type="checkbox"/> Restitution \$
<input type="checkbox"/> DNA Fee \$	<input type="checkbox"/> Sex Offender Registration Fee \$
<input type="checkbox"/> DWI/Other \$	<input type="checkbox"/> Supplemental Sex Off. Victim Fee \$

THE SAID DEFENDANT BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE

- ☐ NYS Department of Correctional Services (NYDOCS) until released in accordance with the law, and being a person sixteen (16) years or older not presently in the custody of the NYDOCS, (New York City Department of Corrections) is directed to deliver the defendant to the custody of NYDOCS as provided in 7 NYCRR Part 103.
- ☐ NYS Department of Correctional Services (NYDOCS) until released in accordance with the law, and being a person sixteen (16) years or older presently in the custody of NYDOCS, defendant shall remain in the custody of the NYDOCS.
- ☐ NYS Office of Children and Family Services in accordance with the law, being a person less than sixteen (16) years of age at the time the crime was committed.
- ☐ County Jail/Correctional Facility

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS:

1 YEAR CONDITIONAL DISCHARGE  
ORDER OF PROTECTION (EXP 7-11-2020)

**FILED**

**JUL 26 2018**

**TIMOTHY C. IBONI**

**COUNTY CLERK**

**COUNTY OF WESTCHESTER**

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated:

Official Name \_\_\_\_\_

Shield No. \_\_\_\_\_

Pre-Sentence Investigation Report Attached: ☐ Yes ☒ No

Order of Protection Issued: ☒ Yes ☐ No

Order of Protection Attached: ☐ Yes ☒ No

Amended Commitment: Original Sentence Date:

07/09/2018 A. ROBINSON

Date

Clerk of the

STATE OF NEW YORK, COUNTY OF WESTCHESTER

by: *[Signature]*

TIMOTHY C. IBONI, COUNTY CLERK OF THE COUNTY OF WESTCHESTER, DO HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH THE ORIGINAL THEREOF FILED IN MY OFFICE ON 07/26/2018 AND THAT THE SAME IS A CORRECT TRANSCRIPT THEREFROM AND OF THE WHOLE OF SUCH ORIGINAL.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIRMED MY OFFICIAL SEAL.

67/26/18 *[Signature]*

COUNTY CLERK AND CLERK OF THE SUPREME AND COUNTY COURTS, WESTCHESTER COUNTY

FEE PAID

SENIOR COURT CLERK

Title



Docket No. 23966/2016E

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
                                      :     ss:  
COUNTY OF BRONX     )

I, WANDA CARDONA being duly sworn deposes and says:

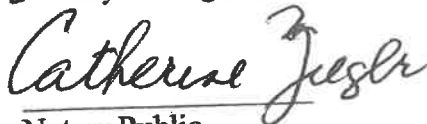
1. I am not a party to the action, am over 18 years of age and reside in Bronx, New York.
2. On August 6, 2018 I served the within NOTICE OF APPEAL by first class mail by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

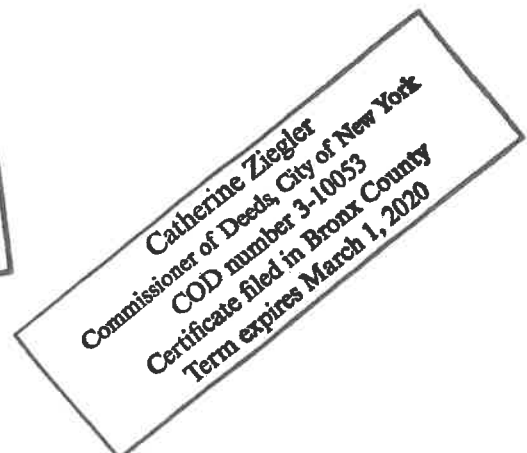
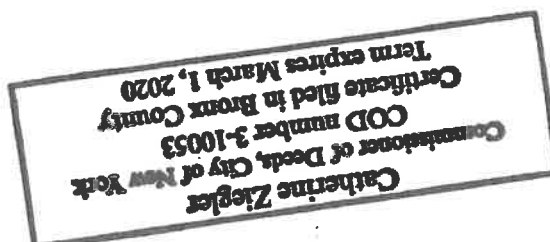
ANTHONY SCARPINO, ESQ.  
District Attorney of Westchester County  
111 Martin Luther King Blvd.  
White Plains, New York 10601

CLERK OF THE COURT  
COUNTY COURT, WESTCHESTER COUNTY  
111 Martin Luther King Blvd.  
White Plains, NY 10604

  
WANDA CARDONA

Sworn to before me this  
day of August, 2018

  
Notary Public



Docket No. 06034M-2017

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

---

THE PEOPLE OF THE STATE OF NEW YORK

against-

GIOVANNI RIVERA,

Defendant-Appellant

---

**NOTICE OF APPEAL**

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JAIME SANTANA, JR., ESQ.  
Attorneys for Defendant-Appellant  
3397 East Tremont Avenue  
Bronx, NY 10461  
(718) 822-0500

BY



JAIME SANTANA, JR., ESQ.